

**Remarks of Commissioner Rachelle Chong  
to Energy Bar Association's  
Fifth Annual Western Chapter Meeting**

**San Francisco, California  
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It is a great pleasure to be here in the City by the Bay to meet with the Energy Bar Association. You may be wondering, "Who is this new Commish, and what the heck does she know about energy law?"

In today's chat, I hope to shed some light on who I am and my telecom regulatory philosophy. As to what I know about energy law, the completely honest answer is that six weeks into my term, I know just enough to be dangerous!

Seriously, on energy issues, I am in a learning and listening mode. Think of this as your golden opportunity to educate me. I am an open minded, eager student, ready to learn yet another set of crazy regulatory acronyms. In telecom, we have LANS, WANS, and IVANs, RIC, TIC, PIC, and TELRIC. In energy, you have the CEC and the CPUC putting out the EAP, governing the IOUs and ESPs meeting the RPS and GHG goals.

The other area I want to cover today is the CPUC's 2006 energy agenda, the California Solar Initiative, Green House Gas Emissions, and Broadband Over Power Lines.

**Background**

Let's start with who I am. I was born and raised in Stockton, California. A journalism bug bit me early, which brought me to UC Berkeley for dual degrees in Journalism and Political Science. First Amendment issues caught my interest, which led to a law degree at UC Hastings College of the Law.

My fascination with wireless phones caused me to move 3,000 miles to Washington D.C. to take my first job practicing law before the FCC. There I worked for a private firm, representing broadcasters and cellular applicants.

After three years of FCC practice, I moved back to San Francisco to get hitched. I joined the law firm of Graham & James, where I became a partner in 1991. I represented cellular and paging carriers before the CPUC about seven years.

In 1994, at the age of 34, I was privileged to be nominated by President Bill Clinton to become the first Asian-American FCC Commissioner. There are very few West Coast FCC commissioners, so think of this as a “once in a blue moon” occurrence. I served a little over three years as an FCC commish.

I was fortunate enough to be at the FCC at a good time. Remember, this is the era when the Internet was not the force in communications that is today. The Vice President was advocating the quaint concept of the “Information Superhighway,” to bring telemedicine and tele-education everywhere on the planet.

The “killer app” back then was email. At that time, the FCC had a “hands off the Net” policy, in order to foster this promising new technology. Good idea.

Bringing in new telephone competition was at the forefront of the FCC’s agenda since it had broken up Ma Bell and fostered new competition in the long distance world. The FCC was focusing on bringing in new telecom competitors to compete with the Baby Bells.

When I arrived at the FCC, we immediately set rules and initiated procedures for the first PCS spectrum auctions, bringing new competition to the wireless telephone market and raising billions of dollars for the US Treasury.

In the years that followed, we licensed an alphabet soup of new communications services, many of which today are delivering on the promise of satellite video, satellite radio, and narrowband and broadband wireless services. We worked on never-ending cable reregulation and early cable telephony rules, then quaintly called “video dialtone.”

In January of 1996, the Telecommunications Act of 1996 passed. This was the first major rewrite of the Communications Act in over sixty years. This is a telecom lawyer’s dream -- to be an FCC Commissioner taking the first crack at interpreting a brand new statute. It turns out that the Act was quite a complicated statute, doing nothing less than introducing competition to the local telephone market, among many other things.

Implementing the Telecom Act of 1996 dominated the FCC's attention for the 18 months following its passage as we had many statutory deadlines to meet. We worked some crazy hours. My brain hurt from all the difficult issues of how to inject competition into a former monopoly situation, how to redo the universal service program which brings telephone service to high cost areas.. We produced many decisions that resembled the Los Angeles phone book. Quite frankly, our decisions were about as readable as the phone book.

My term ended in 1997 just after the major implementation work was finished. I returned to California and became a partner at Coudert Brothers, a law firm.

Just a few years later, I was lured away by a venture capital firm to a Silicon Valley start up as General Counsel and VP of Government Affairs. Unfortunately, this start up did not have the happy ending of a Yahoo or Google, but the start up experience gave me a valuable education into the world of venture capital funding, dealing with dozens of state regulatory regimes as a new telecom competitor, corporate governance and Internet law.

At that point, I took a break from law to spend more time with our three year old twins. My husband and I established and ran an Italian jewelry store and an Internet Ecommerce site. I enjoyed being a Net entrepreneur and a small business owner. I also served on one public corporate board and a non profit board, gaining experience into corporate governance and strategy.

Which brings me up to the present.

## **CPUC**

In early January of this year, Governor Arnold Schwarzenegger made me the proverbial offer I could not refuse. He was looking for a deep telecom expert, and there I was, a former FCC commissioner in temporary retirement.

The Governor spoke to me about his desire to upgrade California's infrastructure, particularly broadband services throughout California. He told me he wanted to ensure California is a technology leader, not just in the United States, but in the world.

The Governor is a persuasive communicator and a man of great vision. So when he asks on a Monday, "Can you start immediately?", you swallow hard and say, "Sure." Three days later I was sitting in a Commissioner seat, casting the third vote on the historic California Solar Initiative.

So here I am, thrown back into public policy again, but this time on behalf of my beloved home state. I am excited about using what I learned on the national scene at the FCC, in my career as a telecom lawyer, start up general counsel, and a net entrepreneur, to help California be that world leader in technology.

## **Regulatory Philosophy**

From my time at the FCC, I have some general regulatory philosophies that I will share with you.

First, I have long stood for what I have called "simple pragmatic regulation." In evaluating regulation, I will first ask, "Is there a real need for this regulation? If so, have we chosen the least intrusive way to achieve our goal?" I often like to meet with the business people of our regulated utilities to find the least regulatory and practical solution to a problem.

Second, where there are competitive markets, I strongly believe that regulatory agencies should step away from traditional regulation and focus instead on being more of a referee, setting technology neutral rules, promoting fair competition, and ensuring a level playing field.

I have been asked whether I think competition has a place in the energy world. From my telecom experience, I admit a bias towards competition because I have seen it work and the benefits of having choices can bring consumers.

Third, the CPUC needs to keep the trains running on time. I believe the agency needs to do things faster and more efficiently to meet the real time business needs of the utilities. Delays in our decision-making can cost millions of dollars.

Fourth, I believe it important for the decision makers to work together in a collegial manner. I learned this from former FCC Chairman Jim Quello. At our first lunch, this long time FCC commissioner said, “Rachelle, I am sure we will agree many times, but if we disagree, let’s agree to disagree without being disagreeable.” To this end, I pledge to do my part to work cooperatively and respectfully with my colleagues – whether at the CPUC, the FCC, the CEC, or the FERC -- to find agreement wherever we can, and to act swiftly to effect sound public policy.

## **Energy**

Now on to the Energy Agenda at the CPUC this year.

When I took this job, I got a crash course in the state’s energy crisis of six years ago. I lived through it like any regular California citizen – coping with high bills, reading with alarm about utilities filing for bankruptcy or on the verge of bankruptcy, and experiencing the serious impacts of the rolling blackouts on the California economy.

I am trying to understand the confluence of factors that contributed to the crisis, so that another crisis does not happen on my watch. To this end, I have been studying the California Energy Action Plan created by the state’s principal energy agencies. It sets out goals and policies to avoid future energy outages and excessive price spikes in electricity or natural gas.

I was truly impressed with the collaboration the CEC and CPUC mustered to create the Energy Action Plan. This year I will work with my colleagues the CPUC and CEC to implement important parts of our plan.

One aspect of the plan is to ensure that the utilities have adequate resources and reserves, since this is a critical component of the current hybrid energy system. This year the PUC will implement the Resource Adequacy framework established in 2005 to ensure that all load serving entities meet the state’s adopted 15 to 17 percent reserve requirement by June 2006. We will also review and approve the utilities’ 2006 long-term procurement plans.

I plan to take these issues very seriously because one slip can cost the economy hardship.

I believe that California's energy must be reliable, affordable, environmentally-sound and technologically advanced. To achieve these objectives I will work with my colleagues to continue implementing the "loading order" adopted in the Energy Action Plan. The "loading order" describes the priority sequence for actions to address the state's energy needs.

First, we should look to demand-side solutions including energy efficiency and demand response. But even if we slow the growth in demand, California needs more energy supplies. Where possible those supplies should come from renewable sources—the next priority in the loading order. Finally, if the state's energy needs cannot be satisfied by energy efficiency, demand response and renewable energy, we should encourage the development of clean and efficient fossil fuel-fired generation.

### **Advanced Metering**

Technology will play an important role as we seek to lower consumer electricity costs and increase system reliability. This year the CPUC will be taking important steps toward the deployment of advanced metering throughout the state. I think of this issue as the major technological upgrade in how our utilities deliver electricity.

This reminds me of when the FCC required TV broadcasters to move from old 1950's analog technology to digital technology. The broadcasters did it kicking and screaming, but it was done just in the nick of time. Look at the benefits digital video is bringing today: new niche video programming, video-on-demand, and spectrum efficiency so spectrum can be freed up for other uses.

Well, similarly, our homes still have 100 year old electric metering technology. This year we'll be approving major rollouts of advanced meters – so consumers can better understand their consumption and so utilities can serve them better. PG&E still doesn't know your lights are out until you call them. Certainly, technology can give us more advanced systems.

This year the Commission will consider authorizing funding for PG&E's proposal for deployment of advanced metering infrastructure and will continue to work with Southern California Edison and SDG&E as they develop their deployment plans.

## **Renewables**

An aspect of the Energy Action Plan that had immediate appeal to me was its commitment to accelerate the state's 20% goal for renewable resource generation to the year 2010. California has put itself back in the spotlight through President Peevey's unwavering commitment to create a cleaner energy future. The CPUC is now identifying steps necessary to achieve that target, as well as the Governor's proposed goal of 33% of electricity sales by 2020.

There is some disagreement on cost-effectiveness of renewables or their reliability. Those are debatable areas. What's not up for debate in my view is the need to diversify our energy supply and address climate change.

There are many actions that the CPUC has cued up to meet the RPS (Renewable Portfolio Standard) requirements. The ones that interest me the most are implementing a cost effective plan to achieve the 3,000 MW goal of the California Solar Initiative, and implementing a renewable energy certificates trading system to reduce the cost of compliance with RPS goals.

## **The Solar Initiative**

My first vote at the Commission was for the California Solar Initiative. This is a 10-year, \$2.9 billion program to help move California toward a cleaner energy future, and help bring the costs of solar electricity down for California consumers. The goal of the program is to increase the amount of installed solar capacity on rooftops in the state by 3,000 MW by 2017.

I knew this was an important decision, but I am beginning to understand its full significance now. The Solar Initiative is part of a vision. Some have argued that the initiative will raise near-term rates. There is dispute over the cost-effectiveness of the program. While these are valid concerns, they miss the point. The decision was about providing Californians with the opportunity to control their electric supply. Again, it is important to diversify our energy supply and address climate change.

The CPUC has more to do to implement the Solar Initiative. I will be pushing to ensure the PUC implements this program effectively and on time.

### **Greenhouse Gas Emissions**

Last Thursday, my colleagues and I unanimously adopted a decision stating the intent of the Commission to establish a load-based cap on greenhouse gas (GHG) emissions for our utilities and other load-serving entities. Besides the forward looking policy the PUC is trail blazing, what impressed me was the coordination this Commission exhibits with other agencies and especially, the Governor.

Some of you may recall that the Governor recently announced his GHG reduction targets last June. Did you know the governor has a “Climate Action Team”?! He must be some energy action figure himself! I’m sorry; I digress. The Governor’s Climate Action Team recently issued a draft report demonstrating that the Governor’s targets are achievable and will provide significant economic and employment benefits for California.

In our decision, we expressed our commitment to continue to collaborate with the Governor’s Climate Action Team and to coordinate its policies with the administration’s GHG reduction policies and goals.

So in summary, the greenhouse gas decision materialized our commitment to a cleaner energy future. It also kicked off a public process to define the implementation details of how a framework for a load-based cap on greenhouse gas emissions ought to be structured.

### **Broadband Over Power Lines**

When I arrived, the CPUC was in the process of developing new regulations covering Broadband Over Power Lines, or BPL. I was very pleased to be assigned this proceeding by President Peevey.



BPL can provide Californians a new wired broadband pipe to the home. It can also provide benefits to electric ratepayers. New “smart grid” application delivered over BPL could increase system reliability and lower costs.

My experience at the FCC convinced me that increasing broadband competition will bring lower prices and innovative services. However, for BPL to have a chance in the broadband marketplace it cannot be burdened by the regulatory framework the CPUC applies to electric utilities. Most importantly, it is clear that companies will not put money at risk to develop BPL networks unless they have regulatory certainty for such a big investment.

Federal agencies and a number of forward-looking states have begun addressing the key regulatory issues surrounding BPL. On October 14, 2004, the Chairmen of FERC and the FCC issued an unusual joint statement saying that “policymakers at all levels should coordinate their efforts to promote a minimally intrusive policy framework for [broadband] technologies.”

This past September, the Governor of Texas signed a bill addressing regulatory issues in that state. Three months later, one of the largest utilities in Texas announced that a BPL system will be built on its network that could serve two million homes and businesses.

I want California to be a BPL leader. The technology is moving rapidly, so I believe the CPUC needs to act proactively. On February 10<sup>th</sup>, I issued a proposed decision that will set up a “BPL-friendly” regulatory framework in California. I believe my proposal establishes regulatory certainty and eliminates unnecessary regulatory burdens in several ways.

First, the draft decision authorizes an electric utility to enter into contracts with third-party or affiliated BPL companies without undergoing a protracted PU Code Section 851 proceeding.

Second, the draft decision protects ratepayers by prohibiting the use of ratepayer dollars on BPL unless the utility benefits justify the costs. Third parties and utility shareholders should bear the risks and receive the rewards from BPL.

Third, transactions between a utility and an affiliated BPL company are subject to affiliate reporting requirements, but are not subject to the Commission’s Energy Affiliate Transaction Rules.

Fourth, we will prevent an electric utility from discriminating against broadband competitors. BPL companies are subject to the same pole attachment fees as cable companies.

Parties will file comments on my draft decision in the next few weeks. The Commission is scheduled to consider my proposed decision at our March 15<sup>th</sup> meeting.

In closing, I wanted to extend an invitation to you to bring your clients in to meet me and share with me background of their company and their three most pressing regulatory issues. The Chong office has an open door policy. Thank you very much.